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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,037	02/17/2004	James Patrick Haffey Green	1057-002	9269
34060	7590	03/07/2006	EXAMINER	
MICHAEL N. HAYNES 1341 HUNTERSFIELD CLOSE KESWICK, VA 22947			MILLER, WILLIAM L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,037

Applicant(s)

GREEN, JAMES PATRICK
HAFFEY

Examiner

William L. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 1-10,23-33,36 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-22,34,35 and 37-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03052004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention II, claims 11-20, 24-34, 37-39, 41, and 47, in the reply filed on 12-16-2005 is acknowledged. However, upon further consideration by the Office, the restriction requirement has been amended to the following:

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, 23-33, 36, and 48, drawn to a columbarium wall, facility, or method, classified in class 52.
- II. Claims 11-22, 34, 35, and 37-47, drawn to a device, urn, system, or method, classified in class 27.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed. For example, combination claim 21 only recites a columbarium wall, while subcombination claim 1 recites a columbarium wall comprising a plurality of masonry courses and further details thereof. The subcombination has separate utility such as a sound barrier.
4. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

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5. During a telephone conversation with Michael Haynes on 02-23-2006 a provisional election was made with traverse to prosecute Invention II, claims 11-22, 34, 35, and 37-47.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-10, 23-33, 36, and 48 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 11, 13-20, 22, 34, 37-39, 41, 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Zukowski et al. (US#5230127).

8. Regarding claims 11, 20, and 37, Zukowski discloses a device, namely a cremation remains urn, comprising: a first wooden portion comprising a substantially rectangular and substantially planar face 19, opposing pair of substantially rectangular and substantially planar sides 11,36, and opposing pair of substantially rectangular and substantially planar ends 35,42; the first wooden portion defining a cremains cavity; and a substantially rectangular planar wooden lid 18 to close and seal the cavity when openings, or vents, (col. 4, lines 14-17) thereof receive fasteners 30 and plugs 32. Although the entire first portion is not made of wood, planar face 19 is made of wood, and thus renders the first portion as being “wooden”.

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9. Regarding claims 13 and 14, the cremains space is at least 200 cubic inches and the device does not have a dimension which exceeds 12 inches. See col. 3, lines 18-20 and 46-50 for dimension ranges.
10. Regarding claims 15-16, the lid is capable of being attached to the first portion via screws and capable of being glued thereto. It is noted the screws are glue are not being positively claimed.
11. Regarding claim 17, the planar face includes grooves 47-49 which receive tongues, namely the edge surfaces of the sides and ends, to interlock the first portion.
12. Regarding claims 18 and 19, the cremains space remains airtight and the urn retains structural integrity at least at temperatures near room temperature, such as 68 degrees and 70 degrees, thereby meeting the claim language.
13. Regarding claim 22, the urn is fabricated.
14. Regarding claim 34, cremains 25 are placed within the urn.
15. Regarding claim 38, the first portion is "adhered" to the lid. No adhesive or glue is being claimed.
16. Regarding claim 39, screws 43 indirectly aid in the attachment of the first portion to the lid.
17. Regarding claims 41 and 47, the device is a cremains container.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zukowski in view of Thrasher (US#5342436).

20. Zukowski fails to disclose a protective finish on the first portion and lid. However, it is well known to apply a protective finish to wood surfaces to not only protect but to provide luster thereto as taught by Thrasher (see abstract). Therefore, as taught by Thrasher, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zukowski by applying a protective finish to the wood planar face and the wood lid for protection and luster thereof.

21. Claim 21, 35, 40, 42-44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zukowski in view of Zarth (US#5765269)

22. Regarding claims 21, 35, 40, 42-44, and 46, Zukowski fails to disclose the placing the urn in a closable niche of a columbarium wall as claimed in detail by the applicant. Zarth teaches it is known to place urns in closeable niches of a columbarium wall thereby providing a sacred resting place for the deceased. Therefore, as taught by Zarth, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zukowski by placing the urn in a closable niche of a columbarium wall thereby providing a sacred resting place for the deceased.

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23. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zukowski in view of Zarth (US#5765269) as applied to claim 42 above, and further in view of Ponger et al. (US#5381591).

24. Zukowski (as modified) discloses the closable niches are internal to each masonry block as opposed to external as claimed by the applicant. However, this configuration is known as Ponger discloses closable niches 26 being external to the masonry blocks 10 of a columbarium structure. Therefore, as taught by Ponger, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Zukowski (as modified) by assembling the columbarium wall such that the niches were external of the masonry blocks for aesthetic purposes.

Conclusion

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

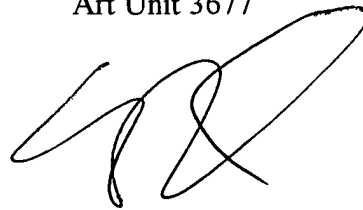
Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller
Primary Examiner
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A handwritten signature in black ink, consisting of a stylized 'W' followed by a large, sweeping loop that ends with a small flourish.

WLM